IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

LA.App..No. 477 of 2002(D)

LAR.19/1999 of SUB COURT,THRISSUR
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APPELLANT: 2ND RESPONDENT IN LAR.19/99:

THE SECRETARY, THRISSUR CORPORATION,
THRISSUR.

BY ADV. SRI.K.B.MOHANDAS,SC,THRISSUR CORPORATION

RESPONDENTS/CLAIMANTS/1ST RESPONDENT IN LAR.19/99:
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1. **DR.C.R.ANTONY,**
   S/O.CHETTUPUZHAKKARAN FRANCIS, FATHIMA NAGAR,
   THRISSUR.

2. **FRANKLIN GEORGE,**
   S/O.CHETTUPUZHAKKARAN GEORGE, FATHIMA NAGAR,
   THRISSUR.

3. **THE SPECIAL TAHSILDAR (L.A.),**
   THRISSUR CORPORATION, THRISSUR.

BY ADV. SRI.WILSON URMESE
SRI.K.P.JOHNSON
SRI.JOHNY KURIAKOSE

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 08/10/2007,ALONG WITH LAA NO. 651 OF 2002, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.M.P.No.2035/2002 IN L.A.A.No.477/2002

DISMISSED

08.10.2007 **Sd/- KURIAN JOSEPH,JUDGE**

Sd/- HARUN-UL-RASHID,JUDGE

TRUE COPY

P.A.TO JUDGE

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NOs. 477 & 651 OF 2002

Dated this the 8th day of October, 2007.

J U D G M E N T

Kurian Joseph, J.

These are appeals filed by the requisitioning authority as well as the claimants respectively against the judgment and decree in L.A.R. No. 19/1999 on the file of the Sub Court, Thrissur. Acquisition is for the purpose of widening of Pattalam road and construction of a shopping complex by the Thrissur Municipality.

2. According to the claimants, the property covered by Exhibit A1 is a transaction of sale on the main road and compared to that property, the acquired property is better and more valuable. According to the requisitioning authority, the Land Acquisition Officer having fixed the land value on the basis of the basic document and such fixation being just and proper, the reference court is not justified in enhancing the compensation.

3. The Land Acquisition Officer fixed the compensation in this case at the rate of Rs. 30,000/- per cent, which has been

enhanced to Rs. 1 lakh per cent. There appears to be no serious dispute as to the locational importance of the acquired property. It is within 50 metres from the Thrissur Corporation Office, equally distanced to Puthenpally and just 10 metres away from the Head Post-office. Thus it is in the real heart of the town.

4. The basic document is wet land and hence the reference court is justified in rejecting the fixation made by the Land Acquisition Officer and adopting its own method. While so, the question is whether just and proper fixation has been made by the reference court. The learned counsel for the claimants vehemently contended that Exhibit A1 should have been relied on by the reference court, particularly in view of the claim made by the claimants at the rate of Rs. 8 lakh per cent.

5. It is further submitted that other transactions contemporaneously made would also show that the land value fixed by the reference court is not proper. It is seen from the judgment, however, that the court refused to follow Exhibit A1 since no evidence was available to prove the circumstances under which A1 was executed. Moreover, there was also an old building in the said property and the composite value is shown as Rs. 4 lakhs for the property and the building. The claimants pray

that in the interest of justice they may be granted a further opportunity before the reference court to establish the correct land value of the property at the time of acquisition.

6. Having regard to the rival contentions taken by the requisitioning authority as well as the claimants, we are of the view that it is only in the interest of justice that an opportunity is given to the parties before the reference court to have the land value correctly fixed.

Accordingly, we set aside the judgment and decree in L.A.R. No. 19/1999 and remit the matter to the reference court. Parties will appear before the reference court on 19.11.2007 and thereafter the cases will be disposed of within a period of another four months. It will be open to the parties to adduce fresh evidence. In view of the remand as above, the appellants shall be entitled to refund of the court fee.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NO. 477 & 651 OF 2002

J U D G M E N T

08.10.2007